

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DAVID ELIJAH BOWERS, JR.,

Plaintiff,

Case No. 23-cv-773-pp

v.

STATE OF WISCONSIN, TONY EVERS,
MANDELA BARNES, CAVALIER JOHNSON,
JEFFREY NORMON, DAVID M. ERWIN
and DANIEL BLACKDEER,

Defendants.

**ORDER DISMISSING CASE WITHOUT PREJUDICE FOR FAILURE TO
COMPLY WITH THE COURT’S ORDER AND DENYING AS MOOT
PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT (DKT. NO. 4)**

On June 14, 2023, the plaintiff—representing himself—filed a complaint, dkt. no. 1, and a motion for leave to proceed without prepaying the filing fee, dkt. no. 2. To qualify to proceed without prepaying the filing fee, a plaintiff must fully disclose his financial condition truthfully under penalty of perjury. See 28 U.S.C. § 1915(a)(1) (requiring the person seeking to proceed without prepaying the fee to file “an affidavit that includes a statement of all assets [they] possess[.]”).

In an order dated May 13, 2024, the court reviewed the plaintiff’s request for leave to proceed without prepaying the filing fee and, based on the facts in

the affidavit, concluded that the plaintiff could pay the \$402¹ filing fee. Dkt. No. 5 at 1-2. The court stated that it would take no further action in the case until it had received the filing fee, and it ordered the plaintiff to pay the filing fee in time for the court to receive it by the end of the day on May 31, 2024. Id. at 2. The court warned the plaintiff that if it did not receive the full filing fee by the end of the day on May 31, 2024, it would dismiss the case on the following business day without further notice or hearing. Id.

On the complaint the plaintiff filed on June 14, 2023, the plaintiff listed his address as 2416 W. Highland Avenue, Milwaukee, WI 53233. Dkt. No. 1 at 10. On December 11, 2023, the court received an envelope from the plaintiff, bearing the address 217 N. 34th Street, Milwaukee, Wisconsin 53208. Dkt. No. 3. Above that address, the plaintiff had written, “warrant officer room[]ing house.” Id. On February 7, 2024, the court received from the plaintiff a motion for default judgment; at the end of the document, he listed his address as 217 N. 34th Street, Milwaukee, WI. Dkt. No. 4 at 16. Because the last address the court had for the plaintiff was the North 34th Street address, it sent its May 13, 2024 order to the plaintiff at that address. The order was not returned to the court as undeliverable and the court has no reason to believe the plaintiff did not receive it.

The May 31, 2024 deadline has passed and as of the date of this order, the court has not received from the plaintiff the \$402 filing fee or a request for

¹ The court explained that although the current filing fee is \$405, the filing fee was \$402 when the plaintiff filed his complaint in June 2023. Dkt. No. 5 at 2.

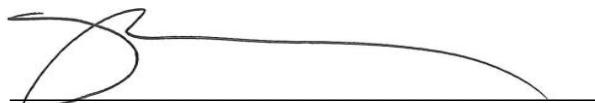
an extension of time to pay the fee. The court “has the inherent power to manage its docket, which includes the power to dismiss a case for ‘failure to comply with valid orders,’ a category of dismissal for failure to prosecute.” See Dorsey v. Varga, 55 F.4th 1094, 1104 (7th Cir. 2022) (quoting Thomas v. Wardell, 951 F.3d 854, 862 (7th Cir. 2020)); see also Civ. L.R. 41(c) (“Whenever it appears to the Court that the plaintiff is not diligently prosecuting the action . . . , the Court may enter an order of dismissal with or without prejudice.”). As it told the plaintiff it would do, the court will dismiss this case for failure to pay the filing fee and failure to comply with the court’s order. The court will dismiss the case without prejudice, which means that the plaintiff may re-file it (assuming no statutory or other limitation periods preclude re-filing).

The court **ORDERS** that the case is **DISMISSED WITHOUT PREJUDICE** for the plaintiff’s failure to pay the filing fee and failure to comply with the court’s order. The clerk will enter judgment accordingly.

The court **ORDERS** that the plaintiff’s motion for default judgment is **DENIED AS MOOT**. Dkt. No. 4.

Dated in Milwaukee, Wisconsin this 14th day of June, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge